

AMENDED IN ASSEMBLY APRIL 21, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1299

Introduced by Assembly Member Ridley-Thomas

February 27, 2015

An act to add Article 6 (commencing with Section 14695.1) to Chapter 8.8 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL’S DIGEST

AB 1299, as amended, Ridley-Thomas. Medi-Cal: specialty mental health services: foster children.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid program provisions. Existing law provides that Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age is covered under Medi-Cal, consistent with the requirements of federal law. Federal law defines EPSDT mental health services to include screening services, vision services, dental services, hearing services, and other necessary services to correct or ameliorate defects and physical and mental illnesses and conditions discovered by the screening services, whether or not the services are covered under the state plan. EPSDT is classified under the Medi-Cal program as a specialty mental health service.

Existing law requires each local mental health plan to establish a procedure to ensure access to outpatient specialty mental health services, as required by the EPSDT program standards, for children in foster care

who have been placed outside their county of adjudication. Existing law includes standardized contracts, procedures, documents, and forms, to facilitate the receipt of medically necessary specialty mental health services by a foster child who is placed outside his or her county of original jurisdiction.

This bill would declare the intent of the Legislature to ensure that foster children who are placed outside of their county of original jurisdiction, are able to access mental health services in a timely manner consistent with their individualized strengths and needs and the requirements of EPSDT program standards and requirements. The bill would require the department to issue policy guidance that establishes the presumptive transfer of responsibility for providing or arranging for mental health services to foster youth from the county of original jurisdiction to the foster child's county of residence, as prescribed. The bill would define presumptive transfer for these purposes.

This bill would require the Department of Finance, by May 1, 2016, to set or adjust its allocation schedule of the Behavioral Health Subaccount pursuant to realignment provisions enacted pursuant to a specified measure, in order that counties that have paid, or will pay, for the specialty mental health services provided pursuant to the bill, are fully reimbursed during the fiscal year in which the services were provided. This bill would require the department to determine whether it is necessary to seek approval under the state's Section 1915(b) Medicaid waiver from the federal Centers for Medicare and Medicaid Services (CMS) prior to implementing the bill, and if so, to do everything within its power necessary to secure an expeditious approval.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 6 (commencing with Section 14695.1) is
2 added to Chapter 8.8 of Part 3 of Division 9 of the Welfare and
3 Institutions Code, to read:

4
5 Article 6. Specialty Mental Health Services for Foster Children

6
7 14695.1. (a) (1) It is the intent of the Legislature to ensure
8 that foster children who are placed outside of their county of
9 original jurisdiction, are able to access mental health services in

1 a timely manner, consistent with their individualized strengths and
2 needs and the requirements of Early Periodic Screening Diagnosis
3 and Treatment (EPSDT) program standards and requirements.

4 (2) It is the further intent of the Legislature to overcome the
5 barriers to care that exist under existing law, which place
6 responsibility for providing or arranging for mental health services
7 to foster children who are placed outside of their county of original
8 jurisdiction, on those same counties.

9 (b) In order to facilitate the receipt of medically necessary
10 specialty mental health services by a foster child who is placed
11 outside of his or her county of original jurisdiction, the California
12 Health and Human Services Agency shall coordinate with the
13 department and the State Department of Social Services to take
14 all of the following actions:

15 (1) On or before July 1, 2016, all of the following shall occur:

16 (A) The department shall issue policy guidance, pursuant to
17 Section 14716, that establishes the presumptive transfer of
18 responsibility for providing or arranging for mental health services
19 to foster youth, consistent with the requirements of EPSDT
20 program standards and requirements, from the county of original
21 jurisdiction to the foster child's county of residence.

22 ~~(B) "Presumptive transfer" for the purposes of this section means~~
23 ~~that absent any conditions or exceptions as established pursuant~~
24 ~~to this article, responsibility for providing or arranging for mental~~
25 ~~health services shall immediately transfer from the county of~~
26 ~~original jurisdiction to the county of residence, when the all of the~~
27 ~~following conditions occur:~~

28 ~~(i) A foster child is placed in a county other than the county of~~
29 ~~original jurisdiction.~~

30 ~~(ii) The transfer of responsibility is requested by the county~~
31 ~~child welfare services agency, county probation department, foster~~
32 ~~caregiver, or any other person authorized to make medical decisions~~
33 ~~on behalf of the foster child.~~

34 ~~(C)~~

35 (B) The department shall establish the conditions and exceptions
36 to presumptive transfer in consultation with the State Department
37 of Social Services, and with the input of stakeholders that include
38 the County Welfare Directors Association of California, the County
39 Behavioral Health Directors Association of California, provider
40 representatives, and family and youth advocates. The conditions

1 and exceptions to presumptive transfer are intended to ensure that
2 the transfer of responsibility improves access to mental health care
3 services and does not impede the continuity of existing care.

4 ~~(D)~~

5 (C) The department shall establish the procedures for
6 implementing presumptive transfer that are consistent with the
7 purposes and intent of this section and Early Periodic Screening
8 Diagnosis and Treatment program standards and requirements,
9 and shall include a procedure for expedited transfer within 48
10 hours.

11 (c) *“Presumptive transfer” for the purposes of this section,*
12 *means that absent any conditions or exceptions as established*
13 *pursuant to this article, responsibility for providing or arranging*
14 *for mental health services shall immediately transfer from the*
15 *county of original jurisdiction to the county of residence, when all*
16 *of the following conditions occur:*

17 (1) *A foster child is placed in a county other than the county of*
18 *original jurisdiction.*

19 (2) *The transfer of responsibility is requested by the county*
20 *child welfare services agency, county probation department, foster*
21 *caregiver, or any other person authorized to make medical*
22 *decisions on behalf of the foster child.*

23 14695.2. By May 1, 2016, the Department of Finance shall set
24 or adjust its allocation schedule of the Behavioral Health
25 Subaccount pursuant to the requirements of Senate Bill 1020
26 (Chapter 40, Statutes of 2012), in order that counties that have
27 paid, or will pay, for specialty mental health services for foster
28 children placed out of county pursuant to this article, are fully
29 reimbursed during the fiscal year in which the services are
30 provided.

31 14695.3. (a) If the department determines it is necessary, it
32 shall seek approval under the state’s Section 1915(b) Medicaid
33 waiver from the United States Department of Health and Human
34 Services, Centers for Medicare and Medicaid Services (CMS) prior
35 to implementing this article.

36 (b) If the department makes the determination that it is necessary
37 to seek CMS approval pursuant to subdivision (a), the department
38 shall make an official request for approval from CMS no later than
39 , *July 1, 2016*, and shall do everything within its power
40 necessary to secure an expeditious approval from CMS.

1 (c) The department shall not be required to implement any
2 provision of this article that CMS determines is not permitted under
3 the state's waiver.

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